

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.14 of 2017

K.Arunbabu

.. Petitioner

Vs.

1.Senthilkumar

2.Gunasekaran

3.The Superintendent of Police,
Anti-Land Grabbing Wing,
District Police Office,
Thiruvannamalai.

4.The Inspector of Police,
Anti-Land Grabbing Special Wing,
Thiruvannamalai,
Thiruvannamalai District.

.. Respondents

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C. against the order dated 16.11.2016 made in Crl.M.P. No.8343 of 2016 on the file of the learned Judicial Magistrate No.I, Tiruvannamalai.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M.Mohamed Riyaz
Government Advocate (Crl.Side)
for R3 and R4

ORDER

This revision is filed against the order dated 16.11.2016 made in Crl.M.P. No.8343 of 2016 on the file of learned Judicial Magistrate No.I, Tiruvannamalai.

2.The case of the petitioner is that first respondent, being the owner of 3750 sq.ft. comprised in Survey No.326/1A1B, Thiruvannamalai Town, has agreed to sell the same to petitioner for Rs.12,00,000/- by way of a registered sale agreement dated 28.05.2007 and also received an advance of Rs.1,00,000/- from him and also agreed to execute a sale deed on or before 27.11.2007 on payment of balance sale consideration of Rs.11,00,000/- Thereafter, first respondent has received further sum of Rs.6,55,000/- on various dates and petitioner has approached him to pay the balance of Rs.4,45,000/- to get the sale deed. As there was no response from him, petitioner has issued a legal notice dated 17.11.2007 expressing his willingness to pay the balance to get the sale deed. First respondent has not given any reply to the legal notice. Hence, petitioner has filed O.S. No.71 of 2007 on the file of the learned District Court, Thiruvannamalai for specific performance.

3.It is further case of the petitioner that first respondent has created a fraudulent sale deed 12.09.2009 in favour of one of his associates by name Gunasekaran, who is the second respondent herein. According to petitioner, respondents 1 and 2 have created the above false document with intention of causing wrongful loss to petitioner. In this regard, petitioner has given a

complaint dated 30.07.2016 to third respondent, who forwarded complaint to fourth respondent for further action. Accordingly, fourth respondent has received the complaint and called upon the petitioner for enquiry. Petitioner has appeared before the fourth respondent and persuaded him to register a case. Finding no response from him, he has filed Crl.O.P. No.20271 of 2016 before this Court seeking a direction. This Court, by order dated 28.09.2016, has disposed of the same, granting liberty to petitioner to follow the procedure laid down in order dated 27.09.2016 passed by this Court in Crl.O.P. Nos.19197, 19198, 19343 and 19359 to 19363 of 2016. The petition preferred by petitioner in Crl.M.P. No.8343 of 2016 on the file of learned Judicial Magistrate No.I, Thiruvannamalai, came to be dismissed under judgment dated 22.03.2016. Hence, this revision.

4.Heard Mr.N.Manokaran, learned counsel for petitioner and Mr.M.Mohamed Riyaz, learned Government Advocate [Crl.side] for R3 and R4.

5.Learned counsel for petitioner submits that averments made in the complaint petition and statement of P.W.1 and P.W.2 would expose the offence committed by respondents 1 and 2, but the learned Trial Judge has not considered the same.

C.T. SELVAM, J

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6. In dismissing such petition, the Trial Court has specifically found that petitioner is only a third party, who has entered into an agreement, in regard to the afore mentioned property. It has held that there was no finding regarding the correctness of the agreement, said to have been entered into by the petitioner.

7. In the above said circumstances, this Court is of the view that the Trial Court is right in holding that as there was a Civil Suit pending before the Civil Court, petitioner could only approach the same and he could not try to convert the same into a criminal case and hence, this Court finds no reason to interfere with the order under challenge.

8. The Criminal Revision Case shall stand dismissed.

05.01.2017

Index: Yes/No
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To

The Judicial Magistrate No.I,
Tiruvannamalai.

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